

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CAPELLA PHOTONICS, INC.,

No. C-14-3348 EMC

Plaintiff,

CONSOLIDATED CASES

v.

C-14-3349 EMC

C-14-3350 EMC

C-14-3351 EMC

CISCO SYSTEMS, INC., *et al.*

Defendants.

**ORDER REGARDING CISCO'S
PENDING MOTION FOR LITIGATION
STAY PENDING *INTER PARTES*
REVIEW**

On February 12, 2015, Cisco filed a motion to stay this action pending the Patent and Trademark Office's decision to institute *inter partes review* (IPR) of one of the patents-in-suit.¹ Docket No. 161. Cisco also filed a motion to expedite the briefing schedule on its motion to stay. Docket No. 162, which this Court granted. Docket No. 163. Cisco's reply in support of its motion to stay is currently due this Friday, March 6, and a hearing is scheduled for Thursday, March 12. *Id.*

In Capella's opposition to Cisco's motion to stay, Capella states that the non-Cisco defendants have not taken a concrete position on whether the pending cases against them should be stayed pending the resolution of IPR proceedings if the case against Cisco is stayed. Docket No. 167. Capella also contends that the non-Cisco defendants have not taken a firm position on Capella's offer to stipulate to a stay of all of the consolidated proceedings before this Court in


¹ The PTO has since instituted IPR of the other patent-in-suit. *See* Docket No. 164.

1 exchange for the non-Cisco defendants agreeing to be bound by the outcome of Cisco's IPR petition,
2 consistent with the estoppel provisions of 35 U.S.C. § 315(e)(2).

3 Non-Cisco defendants are hereby **ORDERED** to file a notice before **noon** on **Thursday,**
4 **March 5, 2015**, indicating: (1) whether they seek a stay of their own cases pending resolution of
5 Cisco's IPR; and (2) whether they will agree to be bound by the same estoppel that limits IPR
6 petitioners as set forth by 35 U.S.C. § 315(e) if the Court conditions a stay in this case on such
7 agreement. The notice shall not contain argument and shall not exceed one page in length.

8 IT IS SO ORDERED.

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10 Dated: March 3, 2015

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13 EDWARD M. CHEN
14 United States District Judge
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